

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

BEN F. CLARK, an individual,

Plaintiff,

v.

GARY CAMPBELL, an individual; ALEX
RANGEL, an individual; LANDER
COUNTY, a political subdivision of the State
of Nevada; and HUMBOLDT COUNTY, a
political subdivision of the State of Nevada;
KYLE NEGUS, an individual;
Defendants.

3:14-CV-00333-LRH-WGC

ORDER

Before the court is Defendants' Motion for Summary Judgment. Doc. #48.¹ Plaintiff Ben F. Clark ("Clark") filed an Opposition (Doc. #52), to which Defendants' replied (Doc. #54).

I. Facts and Procedural History

Clark is a resident of Lander County and has been involved in an ongoing dispute with his next door neighbors, Marvin and Gloria Hughes. In 2012, Clark installed an alarm system to retaliate against the Hughes' barking dogs. On June 23, 2012, the Hughes called the Lander County Sheriff's Office to make a complaint. When Defendants Gary Campbell and Alex Rangel, both Lander County Deputy Sheriffs, arrived on the scene, the Hughes explained the situation to them.

After learning the specifics of the Hughes' complaint, the deputies explained they could not arrest Clark, but explained the Hughes could perform a citizen's arrest. They then went to

¹ Refers to the Court's docket number.

1 speak with Campbell. Campbell and Rangel approached an open rear door and proceeded to
2 knock on the building.

3 Clark approached the open door with a .357 Magnum revolver in his hand. The deputies
4 pulled their weapons and ordered Clark to put the gun down. Clark refused their repeated
5 commands, responding in a belligerent manner and hurling obscenities at the deputies. Rangel
6 holstered his pistol and attempted to use a taser against Clark. Clark was then shot by Campbell.
7 This was all documented on the deputies' body cameras.

8 After being shot once in the abdomen, Clark retreated into his residence and engaged in a
9 standoff with additional officers. He repeatedly refused their instructions to exit the residence
10 and receive immediate medical attention. After several hours, Clark finally left the residence,
11 but did so contrary to the manner he had agreed on with the police. When Clark refused
12 commands to stop, put his hands on his head, and drop to the ground, he was subdued by
13 Humboldt County Deputy Sheriff Kyle Negus, using two drag-stabilized bean bags from a 12-
14 gauge. Campbell was then arrested and treated for his injuries.

15 On June 23, 2014, Clark filed his initial complaint (Doc. #1), and on October 13, 2014,
16 he filed an amended complaint (Doc. #4). He filed a second amended complaint on April 10,
17 2015, alleging seventeen claims for relief: (1) Fourth Amendment Use of Force (42 U.S.C. §
18 1983) against Rangel and Campbell for the shooting; (2) Fourth Amendment Use of Force (42
19 U.S.C. § 1983) against Rangel and Campbell for the taser application; (3) First and Second
20 Amendment Retaliation (42 U.S.C. § 1983) against Rangel and Campbell; (4) Battery against
21 Rangel, Campbell, and Negus; (5) Intentional Infliction of Emotional Distress against Rangel,
22 Campbell, and Negus; (6) Trespass against Rangel and Campbell; (7) Vicarious Liability via
23 *Respondeat Superior* for the state torts against Lander and Humboldt Counties; (8) Municipal
24 Liability via Final Policymaker *Monell* claim (42 U.S.C. § 1983); (9) Negligent
25 Supervision/Retention against Lander County; (10) Conspiracy for Unlawful Arrest with the
26 Hughes against Rangel and Campbell; (11) Arrest without Probable Cause against Rangel and
27 Campbell; (12) False Arrest against Rangel and Campbell; (13) False Imprisonment against
28 Rangel and Campbell; (14) Malicious Prosecution and Malicious Prosecution Plus against

1 Rangel, Campbell, and Lander County; (15) Trespass against Rangel and Campbell; (16) False
 2 Arrest against Rangel and Campbell; and (17) False Imprisonment against Rangel and Campbell.

3 On August 28, 2015, Defendants filed the present motion for summary judgment (Doc.
 4 #48). On October 5, 2015, Clark filed his response. Doc. #52. On October 22, 2015,
 5 Defendants filed their reply. Doc. #54.

6 **II. Legal Standard**

7 Summary judgment is appropriate only when the pleadings, depositions, answers to
 8 interrogatories, affidavits or declarations, stipulations, admissions, and other materials in the
 9 record show that “there is no genuine issue as to any material fact and the movant is entitled to
 10 judgment as a matter of law.” Fed. R. Civ. P. 56(a). In assessing a motion for summary
 11 judgment, the evidence, together with all inferences that can reasonably be drawn therefrom,
 12 must be read in the light most favorable to the party opposing the motion. *Matsushita Elec.*
 13 *Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986); *Cnty. of Tuolumne v. Sonora Cmty.*
 14 *Hosp.*, 236 F.3d 1148, 1154 (9th Cir. 2001). A motion for summary judgment can be complete
 15 or partial, and must identify “each claim or defense—or the part of each claim or defense—on
 16 which summary judgment is sought.” Fed. R. Civ. P. 56(a).

17 The party moving for summary judgment bears the initial burden of informing the court
 18 of the basis for its motion, along with evidence showing the absence of any genuine issue of
 19 material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). On those issues for which it
 20 bears the burden of proof, the moving party must make a showing that no “reasonable jury could
 21 return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248
 22 (1986). On an issue as to which the nonmoving party has the burden of proof, however, the
 23 moving party can prevail merely by demonstrating that there is an absence of evidence to support
 24 an essential element of the non-moving party’s case. *Celotex*, 477 U.S. at 323.

25 To successfully rebut a motion for summary judgment, the nonmoving party must point
 26 to facts supported by the record that demonstrate a genuine issue of material fact. *Reese v.*
 27 *Jefferson Sch. Dist. No. 14J*, 208 F.3d 736, 738 (9th Cir. 2000). A “material fact” is a fact “that
 28 might affect the outcome of the suit under the governing law.” *Liberty Lobby*, 477 U.S. at 248.

Where reasonable minds could differ on the material facts at issue, summary judgment is not appropriate. *See v. Durang*, 711 F.2d 141, 143 (9th Cir. 1983). A dispute regarding a material fact is considered genuine “if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Liberty Lobby*, 477 U.S. at 248. The mere existence of a scintilla of evidence in support of the party’s position is insufficient to establish a genuine dispute; there must be evidence on which a jury could reasonably find for the party. *See id.* at 252. “[S]peculative and conclusory arguments do not constitute the significantly probative evidence required to create a genuine issue of material fact.” *Nolan v. Cleland*, 686 F.2d 806, 812 (9th Cir. 1982).

III. Discussion

A. Fourth Amendment Use of Force

Defendants argue that deadly force was justified because Clark approached the officers in a belligerent and aggressive manner with a gun in his hand. He refused their repeated requests to put the gun down, and after he was tased, they saw him move in a threatening manner. Plaintiff argues that the force used was excessive because there was no crime afoot and Clark did not verbally threaten the officers or point his gun at them.

To sustain an action under section 1983, a plaintiff must show (1) that the conduct complained of was committed by a person acting under color of state law; and (2) that the conduct deprived the plaintiff of a federal constitutional or statutory right. *Rinker v. County of Napa*, 831 F.2d 829, 831 (9th Cir.1987) (citing *Parratt v. Taylor*, 451 U.S. 527, 535, 101 S.Ct. 1908, 1912, 68 L.Ed.2d 420 (1981)).

Because this case involves claims of excessive force in violation of the Fourth Amendment, the constitutional analysis is governed by the “objective reasonableness” standard. *Graham v. Connor*, 490 U.S. 386, 396, 109 S.Ct. 1865, 104 L.Ed.2d 443 (1989); *Tennessee v. Garner*, 471 U.S. 1, 7, 105 S.Ct. 1694, 85 L.Ed.2d 1 (1985). Determining whether a particular use of force is reasonable under the Fourth Amendment “requires a careful balancing of ‘the nature and quality of the intrusion on the individual's Fourth Amendment interests’ against the countervailing governmental interests at stake.” *Graham*, 490 U.S. at 396, 109 S.Ct. 1865

(internal citation and quotation marks omitted). The use of deadly force is reasonable “if the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.” *Scott v. Henrich*, 39 F.3d 912, 914 (9th Cir.1994) (quoting *Garner*, 471 U.S. at 3, 105 S.Ct. 1694.); *see also Long v. City & Cnty. of Honolulu*, 511 F.3d 901, 906 (9th Cir.2007). Determining whether an officer's use of force was reasonable requires consideration of all the circumstances known to the officer, including “the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” *Graham*, 490 U.S. at 396, 109 S.Ct. 1865. Moreover, the reasonableness of the force used “must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” *Jackson v. City of Bremerton*, 268 F.3d 646, 651 (9th Cir.2001) (quoting *Graham*, 490 U.S. at 396, 109 S.Ct. 1865). The court must allow for the fact that “police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Graham*, 490 U.S. at 396–97, 109 S.Ct. 1865.89.

The analysis of the use of intermediate force, like a taser, is quite similar to the analysis for the use of deadly force. The use of a taser in dart mode qualifies as an intermediate level of force, which “must be justified by a strong government interest that compels the employment of such force.” *Lindsay v. Kiernan*, 378 F. App'x 606, 608 (9th Cir. 2010). The reasonableness of the application of intermediate force is tested in much the same way as the application of lethal force. *Id.* “To examine the government's interest in the use of force, this court considers (1) whether the suspect poses an immediate threat to the safety of the officers or others; (2) whether the suspect is actively resisting; and (3) the severity of the initial offense.” *Id.*

Further, “the appropriate inquiry is whether the officers acted reasonably, not whether they had less intrusive alternatives available to them.” *Scott*, 39 F.3d at 915. “Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment. In the heat of battle with lives potentially in the balance, an officer would not be able to rely on training and common sense to decide what would best accomplish his mission.

1 Instead, he would need to ascertain the least intrusive alternative (an inherently subjective
2 determination) and choose that option and that option only. Imposing such a requirement would
3 inevitably induce tentativeness by officers, and thus deter police from protecting the public and
4 themselves. It would also entangle the courts in endless second-guessing of police decisions
5 made under stress and subject to the exigencies of the moment. Officers thus need not avail
6 themselves of the least intrusive means of responding to an exigent situation; they need only act
7 within that range of conduct we identify as reasonable.” *Id.*

8 The amount of force the officers applied was appropriate in this case. Clark appeared to
9 pose a significant threat to the officers. He approached them with a loaded .357 revolver in his
10 hand, and he refused more than 60 requests to put the gun down. While the officers were
11 generally calm and reasonable in their conduct with him, Clark grew increasingly belligerent
12 throughout the encounter. He began shouting, he categorically refused to put the gun down, he
13 used curse words and racial epithets, and he moved toward the officer before the officer tased
14 him. All this is evident from the video. Additionally, it is uncontested that the Plaintiff was
15 moving the gun around in his hands while he was talking. A suspect does not have to be primed
16 to fire a weapon before an officer is allowed to use deadly force. *Moore v. City of Selma, Ala.*,
17 No. CIV.A. 14-212-CG-C, 2015 WL 4073245, at *7 (S.D. Ala. July 6, 2015) (“Police should not
18 have to wait until suspects fire or might fire a weapon before using deadly force”); *see also*
19 *Garczynski v. Bradshaw*, 573 F.3d 1158, 1169 (11th Cir. 2009) (“At least where orders to drop
20 the weapon have gone unheeded, an officer is not required to wait until an armed and dangerous
21 felon has drawn a bead on the officer or others before using deadly force”). Moreover, the
22 officers testified that after the tase Clark was moving his arms, and Campbell saw Clark put his
23 finger inside the trigger guard before Campbell made the decision to shoot.

24 This case is similar to other cases where the courts found the use of lethal force
25 reasonable. In *Moore*, the court found reasonable force where an armed young man repeatedly
26 disobeyed police commands to drop his gun and was shot after moving suddenly. In *Estate of*
27 *Martinez v. City of Fed. Way*, 105 F. App'x 897, 898 (9th Cir. 2004), the court found the use of
28 force reasonable when an armed man was “intoxicated, belligerent, and ignored repeated

1 commands by the officers to drop his gun,” even though the officers didn’t see him put his finger
 2 on the trigger. The Court held that “[w]hether Martinez’s finger was on the trigger is irrelevant.
 3 Even if Martinez’s finger was not on the trigger, it would only take a fraction of a second for him
 4 to place it there.” *Id.*

5 Finally, Plaintiff’s expert also makes the argument that the officers should have retreated
 6 initially instead of engaging with Clark, but the 9th Circuit has held that officers “need not avail
 7 themselves of the least intrusive means of responding to an exigent situation; they need only act
 8 within that range of conduct we identify as reasonable.” *Scott*, 39 F.3d at 915.

9 Because Clark behaved in a way that showed him to pose an immediate threat to the
 10 safety of the officers and he refused their repeated commands to put his gun down, the Court
 11 finds that the use of both intermediate and deadly force was justified in this case. Accordingly,
 12 the Court grants Defendant’s motion for summary judgment as to the two use of force claims.

13 **B. First and Second Amendment Retaliation**

14 Defendants argue that there is no evidence whatsoever that Campbell and Rangel
 15 exercised any force upon Clark in retaliation for protected activity. Clark argues Rangel and
 16 Campbell used force against him in retaliation for his First Amendment activities (his speech
 17 directed toward the deputies) and his Second Amendment activities (his speech about his Second
 18 Amendment rights).

19 “To demonstrate retaliation in violation of the First Amendment, [Plaintiff] must
 20 ultimately prove first that [Defendants] took action that would chill or silence a person of
 21 ordinary firmness from future First Amendment activities.... The second requirement is [that] ...
 22 [Plaintiff] must ultimately prove that [Defendants]’ desire to cause the chilling effect was a but-
 23 for cause of [Defendants]’ action” *Skoog v. County of Clackamas*, 469 F.3d 1221, 1231-32 (9th
 24 Cir.2006) (internal quotation marks and footnote omitted).

25 Here, Clark cannot establish causation. Clark’s argument is that “given the proximity in
 26 time between the known protected activity and the taser and shooting, a reasonable inference
 27 exists that the latter were motivated by the former.” This conclusory statement simply isn’t
 28 enough. Plaintiff provides no actual evidence to suggest that the officers were motivated by a

1 desire to halt Plaintiff's free speech. Further, in Plaintiff's own deposition, when asked about the
 2 retaliation claim, he stated that he was not shot in retaliation, but "I was shot by two Keystone
 3 cops. That's why I was shot." Doc. #48.

4 Further, Plaintiff admits Judge Montero's Order established probable cause through issue
 5 preclusion. Doc. #52. Although probable cause is not dispositive in cases that are not retaliatory
 6 prosecution claims, the 9th Circuit does consider it to be of "high probative force." *Dietrich v.*
 7 *John Ascuaga's Nugget*, 548 F.3d 892, 901 (9th Cir. 2008) (quoting *Hartman v. Moore*, 547 U.S.
 8 250, 265-66, 126 S.Ct. 1695, 164 L.Ed.2d 441 (2006)). Moreover, the Ninth Circuit further held
 9 that cases with very strong evidence of probable cause and very weak evidence of a retaliatory
 10 motive should not survive summary judgment. *Id.* "There is almost always a weak inference of
 11 retaliation whenever a plaintiff and a defendant have had previous negative interactions; holding
 12 that this case survives summary judgment would provide almost no protection for government
 13 officials from the disruption caused by unfounded claims." *Id.* (internal quotations omitted).

14 Additionally, Plaintiff states that their claim for retaliation against Plaintiff's exercise of
 15 his Second Amendment rights is also couched in his First Amendment rights, stating "Plaintiff's
 16 theory is the use of excessive force as it relates to the taser and Campbell's shooting was to
 17 squelch the Second Amendment tirade, not to deprive him of his right to bear arms." Doc. #52.
 18 Thus, the same analysis applies. Therefore, the Court grants Defendant's motion for summary
 19 judgment as to the retaliation claim.

20 **C. Battery**

21 Defendants argue that they are not liable for battery because their use of force was
 22 justified. Clark argues that Defendants are guilty of battery because their conduct meets the
 23 elements of a battery claim.

24 "To establish an assault claim, a plaintiff must show that the actor (1) intended to cause
 25 harmful or offensive physical contact, and (2) the victim was put in apprehension of such
 26 contact." *Burns v. Mayer*, 175 F.Supp.2d 1259, 1269 (D.Nev.2001) (citing Restatement
 27 (Second) of Torts, § 21 (1965)). "To establish a battery claim, a plaintiff must show that the
 28 actor (1) intended to cause harmful or offensive contact, and (2) such contact did occur." *Id.*

(citing Restatement (Second) of Torts, §§ 13, 18). Furthermore, “[u]nder Nevada law, a police officer is privileged to use the amount of force reasonably necessary.” *Vasquez–Brenes Las Vegas Metro. Police Dep’t*, 51 F.Supp.3d 999, 1014 (D. Nev. 2014) (citing *Yada v. Simpson*, 913 P.2d 1261, 1262 (Nev.1996), superseded by statute on other grounds as recognized by *RTTC Commc’n, LLC v. Saratoga Flier, Inc.*, 110 P.3d 24, 29 (Nev.2005)). However, “[a]n officer who uses more force than is reasonably necessary is liable for battery.” *Id.*; *see also Ramirez v. City of Reno*, 925 F.Supp. 681, 691 (D. Nev.1996) (applying Nevada law). Accordingly, the standard for battery by a police officer under Nevada law is the same as under a § 1983 claim. *Vasquez–Brenes*, 51 F.Supp.3d at 1014; *see also Ramirez*, 925 F.Supp. at 691 (“The standard for common-law assault and battery by a police officer thus mirrors the federal civil rights law standard”).

The Court has already ruled above that Rangel and Campbell were justified in their use of force, thus they are not liable for battery. As to Negus, this Court rules that he was also justified in his use of intermediate force against Clark. Clark, a man known to be armed, had just emerged from his residence after an hours long standoff in a manner contrary to the agreed upon plan. He then refused the officers’ explicit directions to stop, put his hands on his head, and drop to the ground. He posed a danger to the officers, and Negus used the minimum force necessary to get Clark to comply. Accordingly, this Court grants Defendants’ motion for summary judgement for the battery claim.

D. Intentional Infliction of Emotional Distress

Defendant argues that the Intentional Infliction of Emotional Distress claim cannot stand because the officers’ actions were justified. Clark argues that the officers’ conduct was sufficiently outrageous to sustain the claim.

To recover for the intentional infliction of emotional distress, a plaintiff must establish the following elements: (1) that the defendant's conduct was extreme and outrageous; (2) that the defendant either intended or recklessly disregarded the causing of emotional distress; (3) that the plaintiff actually suffered severe or extreme emotional distress; and (4) that the defendant's conduct actually or proximately caused the distress. *Star v. Rabello*, 97 Nev. 124, 625 P.2d 90

1 (1981). In order for conduct to be extreme and outrageous it must be “outside all possible
2 bounds of decency and [] regarded as utterly intolerable in a civilized community.” *Maduiké v.*
3 *Agency Rent-A-Car*, 953 P.2d 24, 26 (Nev.1998) (internal quotation marks omitted).

4 Here, Clark has pointed to no part of the record to demonstrate that the officers acted
5 with the intent to cause, or reckless disregard for causing, emotional distress. In a rapidly
6 evolving situation, the officers responded with appropriate force to deal with a potential threat.
7 Accordingly, this Court grants Defendants’ motion for summary judgment on the Intentional
8 Infliction of Emotional Distress claim.

9 **E. Trespass**

10 Defendants argue that there was no trespass because the gate to Clark’s residence was
11 open, and they were within their rights to conduct a “knock and talk.” Clark argues that the
12 officers committed trespass because they entered Clark’s land and remained there.

13 It is “permissible for officers to approach a home to contact the inhabitants.” *United*
14 *States v. Perea-Rey*, 680 F.3d 1179, 1187-88 (9th Cir. 2012). “The constitutionality of such
15 entries into the curtilage hinges on whether the officer's actions are consistent with an attempt to
16 initiate consensual contact with the occupants of the home.” *Id.* “Officers conducting a knock
17 and talk also need not approach only a specific door if there are multiple doors accessible to the
18 public, they may approach any part of the building where uninvited visitors can be expected.”
19 *Id.*

20 The officers did not trespass on Clark’s land because they were lawfully present. Clark
21 admits he did not have any “no trespassing signs,” and the officers entered through an open gate
22 (as shown by the video) to speak with Clark as part of their investigation into the Hughes’ citizen
23 arrest complaint. Therefore, there was no trespass. Accordingly, this Court grants the
24 Defendants’ motion for summary judgment on the trespass claims.

25 **F. Monell Claim**

26 The plaintiff has consented to the dismissal of this count.

27 **G. Negligent Supervision and Retention**

28 The plaintiff has consented to the dismissal of this count.

1 **H. Conspiracy for Unlawful Arrest**

2 Defendants argue that there was no conspiracy for unlawful arrest with the Hughes
3 because the officers acted appropriately in explaining and investigating a potential citizen's
4 arrest.

5 In Nevada, a private person may arrest another "[f]or a public offense committed or
6 attempted in the person's presence." NRS. 171.126. Prior to effectuating the arrest, officers
7 must conduct additional investigation on a citizen's arrest "in order to establish independent
8 probable cause prior to effectuating that arrest." *Hopkins v. Bonvicino*, 573 F.3d 752, 775 (9th
9 Cir. 2009).

10 Clark cannot show a conspiracy existed here. After responding to the Hughes' phone
11 call, the officers explained to them the procedure for making a citizen's arrest, which the Hughes
12 said they wanted to do. The Hughes had complained of, among other things, loud music and a
13 sounding alarm, which were audible when the officers arrived on the scene. In proceeding to
14 Clark's property to speak with him, the officers were conducting the independent investigation
15 required of them. Accordingly, this Court will grant Defendants' motion for summary judgment
16 as to his claim.

17 **I. Arrest without Probable Cause, False Arrest, False Imprisonment, and** 18 **Malicious Prosecution**

19 Clark admits that Judge Montero's Order established probable cause through issue
20 preclusion. Doc. #52.

21 The existence of probable cause vitiates any claim of unlawful arrest, false imprisonment,
22 or malicious prosecution, regardless of whether the defendant had malicious motives for seeking
23 a plaintiff's arrest. *Pierson v. Ray*, 386 U.S. 547 (1967); *Wyatt v. Cole*, 504 U.S. 158, 165
24 (1992); *Schertz v. Waupaca Cnty.*, 875 F.2d 578, 582 (7th Cir. 1989); *Sudderth v. City & Cnty. Of*
25 *San Francisco*, 2001 WL 764929 (N.D. Cal. 2001); *Freeman v. City of Santa Ana*, 68 F.3d 1180,
26 1189 (9th Cir. 1995); *Beauregard v. Wingard*, 362 F.2d 901, 903 (9th Cir. 1966); *Turner v. Cnty.*
27 *Of Washoe*, 759 F. Supp. 630, 633 (D. Nev. 1991).

1 Because Plaintiff has admitted probable cause has been established, there can be no claim
2 for unlawful arrest, false imprisonment, or malicious prosecution under federal law. Therefore,
3 this Court grants Defendants' motion for summary judgment as to these claims. Additionally,
4 Clark has consented to the dismissal of the malicious prosecution plus claim.

5 **J. Vicarious Liability via *Respondeat Superior***

6 Defendants argue that there is no vicarious liability because the officers did nothing to
7 give rise to it. Clark argues that vicarious liability exists because of the intentional acts of the
8 officers.

9 Because no claims remain, there can be no vicarious liability arising from them.
10 Accordingly, this Court grants Defendants' motion for summary judgment as to the vicarious
11 liability claim. Further, because there are no remaining claims, it is unnecessary to address the
12 arguments on qualified immunity, discretionary function immunity, and discovery abuse.

13 **IV. Conclusion**

14 IT IS THEREFORE ORDERED that Defendants' Motion for Summary Judgment (Doc.
15 #48) is GRANTED. The Clerk of Court shall enter judgment in favor of Defendants, and against
16 Plaintiff Clark.

17 IT IS SO ORDERED.

18 DATED this 20th day of November, 2015.

19 
20 LARRY R. HICKS
21 UNITED STATES DISTRICT JUDGE
22
23
24
25
26
27
28